



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 68 OF 2022

ADITI SHIRISH DULEWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Sunil M. Vibhute
AGP for Respondents-State : Mr. S. K. Tambe

...
**CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.**

DATE : 5th JANUARY, 2022

PER COURT :-

1. The tribe claim of the petitioner as belonging to “Mannervarlu” scheduled tribe is invalidated.
2. Mr. Vibhute, learned counsel for the petitioner submits that father of the petitioner had also applied for validity of “Mannervarlu” scheduled tribe. His claim was invalidated. He filed writ petition No. 2007 of 1994. The Division Bench of this Court under judgment and order dated 15-01-2004 allowed the writ petition and directed the Committee to issue validity certificate to the father of petitioner. Similarly, paternal cousins of the petitioner are issued with validities.

अ.क्र.	दावाकर्त्याचे नाव	अर्जदार याच्याशी नातेसंबंध	जमात दाव्याचा निर्णय	निर्णय दिनांक
1	सविता शिवलिंग दुल्हेवाड	आत्या	वैध	19 / 04 / 2003
2	शिरीष शिवलिंग दुल्हेवाड	वडील	वैध	31 / 05 / 2004
3	दत्तासंतोष गुरुनाथ दुल्हेवाड	चुलत काका	वैध	15 / 01 / 2005
4	गणेश जगन्नाथ दुल्हेवाड	चुलत भाऊ	वैध	29 / 05 / 2006
5	श्रीकांत रमेशराव दुल्हेवाड	चुलत भाऊ	वैध	05 / 09 / 2006
6	रामदास जगन्नाथ दुल्हेवाड	चुलत भाऊ	वैध	07 / 09 / 2006
7	योगेश पंडीत दुल्हेवाड	चुलत काका	वैध	21 / 09 / 2007

8	वैशाली पंडीत दुल्हेवाड	चुलत आत्या	वैध	14 / 12 / 2007
9	मंजुषा जगन्नाथ दुल्हेवाड	चुलत बहीण	वैध	31 / 03 / 2008
10	रमेश मारोतराव दुल्हेवाड	चुलत काका	वैध	22 / 08 / 2008
11	बालाजी गणपत दुल्हेवाड	चुलत भाऊ	वैध	30 / 10 / 2009
12	मिनल रमेशराव दुल्हेवाड	चुलत बहीण	वैध	31 / 10 / 2009
13	स्वरूपा शिवलिंग दुल्हेवाड	चुलत आत्या	वैध	03 / 06 / 2010
14	शिवकुमार शिवलिंगराव दुल्हेवाड	काका	वैध	03 / 06 / 2010
15	किरण सुरेश दुल्हेवाड	चुलत भाऊ	वैध	18 / 07 / 2011
16	संजय गणपती दुल्हेवाड	चुलत भाऊ	वैध	11 / 10 / 2021

3. According to learned counsel for the petitioner, validities issued to paternal cousin is a relevant fact. Some of the contra entries on record, which are relied by the Committee while invalidating the tribe Claim of the petitioner were also subject-matter of consideration while issuing validity to Dattasantosh Dulhewad paternal cousin of the petitioner. There are (16) validity certificates issued in favour of the paternal relatives of the petitioner. The learned counsel for petitioner submits that the affinity test is not a litmus test. In support of said submission, he relies upon the judgment of the Apex Court in the case of **Anand Versus Committee for Scrutiny and Verification of Tribe Claim and others** reported in **(2012)1 SCC 113**.

4. Mr. Tambe, learned AGP submits that there are many contra entries on record. All these entries were not subject matter while issuing validity certificate to the father of the petitioner. The petitioner failed in the affinity test. Show cause notice has been issued to the validity holders relied upon by the petitioner.

5. We have considered the submissions. The relationship of the petitioner with the persons, who are issued with validity certificates, is not disputed. Sixteen (16) paternal relatives of the petitioner were

issued with validity certificates of 'Mannervarlu' scheduled tribe.

6. The Division Bench of this Court in Writ Petition No. 2007 of 1994 filed by the father of the petitioner under judgment and order dated 15-01-2004 directed the Committee to issue validity certificate to the father of the petitioner. The said judgment has become final. Some of the contra entries relied upon by the Committee were also subject-matter for consideration while issuing validity certificate to Dattasantosh, paternal cousin of the petitioner.

7. In light of the judgment delivered by the Division Bench of this Court in the case of father of the petitioner and validities issued to nearest relatives, so also, the fact that contra entries were also the subject matter of consideration in the earlier validity proceedings, we pass the following order;

ORDER

- (i) The Committee shall issue validity certificate to the petitioner of 'Mannervarlu' scheduled tribe immediately.
 - (ii) In case, the order of this Court in Writ Petition No. 2007 of 1994 dated 15-01-2004 is reviewed, then decision by the Committee in present case would be subject to the same.
8. Writ petition is disposed of. No costs.

(S.G. DIGE)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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